



BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA-2015-3980; Notice No. 15-09]

RIN 2120-AK74

Pearson Field Airport Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is proposing to establish a Special Flight Rules Area in the vicinity of Pearson Field Airport, Vancouver, Washington. Pearson Field Airport is located approximately three nautical miles northwest of Portland International Airport, Portland, Oregon. The close proximity of the airport traffic patterns and approach courses create converging flight paths between traffic on approach to Portland International Airport and traffic at Pearson Field Airport, increasing the risk for near mid-air collision, mid-air collision and wake turbulence events. The intended effect of this action is to mitigate the identified risk by establishing operating requirements applicable to all aircraft when operating within a designated area at Pearson Field Airport, which would increase overall system efficiency and safety.

DATES: Send comments on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments identified by docket number FAA-2015-3980 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at 202-493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Jon M. Stowe, Airspace and Rules Team, AJV-113, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8783; e-mail jon.m.stowe@faa.gov.

For legal questions concerning this action, contact Lorelei Peter, Office of Chief Counsel, AGC-200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3073; e-mail lorelei.peter@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code (49 U.S.C.). Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules. This rulemaking also is promulgated under the authority described in 49 U.S.C. 40103, which vests the Administrator with broad authority to prescribe regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

I. Executive Summary

This NPRM proposes to establish a special flight rules area (SFRA) around Pearson Field Airport (Pearson Field) in which pilots would have to follow mandatory procedures. These procedures are necessary to assist in the separation of air traffic, and to ensure pilots are aware of potential traffic conflicts between aircraft operating at Pearson Field and Portland International Airport. The purpose is to ensure safety of flight for aircraft operating at Pearson Field Airport and the adjacent Portland International Airport.

II. Background and History

Pearson Field is located on the north bank of the Columbia River in Vancouver, Washington, approximately three nautical miles west of Portland International Airport, Portland, Oregon. Pearson Field is part of the Fort Vancouver National Historic Site, and is listed on the National Register of Historic Places. It is one of the oldest airports in the United States, and the longest continually operating airport west of the Mississippi. Pearson Field does not have an air traffic control tower.

Portland International Airport is located 10 miles northeast of downtown Portland and has over 300,000 annual operations, primarily scheduled air carriers conducting operations under title 14 of the Code of Federal Regulations (14 CFR) part 121. It serves northern Oregon and southwest Washington with service to 120 cities worldwide. Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, the FAA has identified safety issues.

The airspace area surrounding Pearson Field is excluded from the Portland International Airport Class C airspace area and is commonly referred to as the Pearson cutout. The runway 08

threshold at Pearson Field is directly below the instrument landing system (ILS) final approach course to Portland International Airport's runway 10L. Additionally, runway 10L was expanded to accommodate heavy aircraft and Boeing 757s. These operations increase the risk of wake turbulence events between Portland International Airport arrivals to runway 10L or departures from runway 28L/28R and aircraft operating at Pearson Field.

The Airport/Facility Directory (A/FD) lists the traffic pattern altitude at Pearson Field as 1029 feet mean sea level (MSL) or 1000 feet above ground level (AGL). The A/FD also instructs aircraft operating over the runway centerline or extended runway centerline at Pearson Field to "maintain at or below 700 feet MSL due to traffic and wake turbulence from overflying aircraft to/from Portland International Airport Runway 10L/28R." This is because aircraft established on the Portland International Airport ILS final approach course to runway 10L pass directly over Pearson's runway 08 threshold at 1091 feet MSL (1062 feet AGL). The close proximity of the traffic pattern and the approach course create converging flight paths between aircraft on approach to Portland International Airport's runway 10L/10R and aircraft operating at Pearson Field.

These converging flight paths and the lack of vertical separation create potential safety concerns for aircraft operating at both Pearson Field and Portland International Airport, including risk of mid-air collision and wake turbulence events. There is no requirement for pilots to establish communications with air traffic control to receive traffic advisories. In particular, when Portland International Airport is operating on an east traffic flow and weather permits aircraft to operate under visual flight rules (VFR) at Pearson Field the occurrence of traffic collision avoidance system (TCAS) resolution advisories (RA) increases.

To mitigate the identified risk, FAA's Portland Approach Control took measures to increase safety, which included training controllers regarding flight paths into and out of Pearson Field, and refresher training regarding RAs, safety alerts and wake turbulence. Portland Air Traffic Control Tower established the “Pearson Advisory” position to provide traffic advisories to aircraft operating at Pearson Field. Additionally, recommended pilot communications and procedures were placed in the A/FD, which are voluntary but not required. While these mitigations have increased safety and pilot awareness, 20 TCAS RAs were reported and logged by air traffic control during calendar year 2014 and reflect an ongoing safety concern.

III. The Proposed Rule

To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA is proposing to establish a SFRA at Pearson Field by adding new subpart N to part 93, where special air traffic rules are codified. The proposed rule provides a description of the airspace area (proposed § 93.162), communication requirements in the SFRA for both inbound and outbound flights (proposed § 93.163(a)), and procedural requirements necessary to reduce the risks associated with the operation (proposed § 93.163(c)).

This action proposes to make the following voluntary practices in the A/FD and air traffic procedures applicable in the Pearson Field SFRA and mandatory for all pilots unless otherwise authorized by Air Traffic Control (ATC):

- Pilots must establish two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories prior to entering the SFRA or taxiing onto the runway for departure. Additionally, pilots must continuously monitor the frequency at all times while operating within the designated airspace.

- When operating over the extended centerline of Pearson Field Runway 8/26, pilots must maintain an altitude at or below 700 feet MSL.
- Pilots must obtain the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.
- Pilots must remain outside Portland Class C Airspace.
- Pilots must make a right-hand traffic pattern when operating to/from Pearson Field Runway 26.
- Pilots may operate in the area without establishing two-way radio communication, in the event of radio failure, provided that weather conditions at Pearson Field are at or above basic VFR weather minimums.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act

of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, safety issues have been identified. To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA is proposing to establish a SFRA at Pearson Field in part 93. The proposed rule provides a description of the area, communication requirements for both inbound and outbound flights, and procedural requirements necessary to reduce the risks associated with the operation.

Currently, pilots voluntarily comply with procedures in the A/FD, to establish two-way radio communications with Pearson Advisory, and to maintain at or below 700 feet above mean sea level when operating over the extended centerline of Pearson Field Runway 8/26. Additionally, air traffic control instructs pilots on Pearson advisory to obtain the Pearson Field weather, and to remain outside Portland Class C Airspace. As a result of being required to

remain outside of Portland's Class C Airspace, pilots must make a non-standard right traffic pattern if landing on runway 26 at Pearson Field. Twenty TCAS resolution advisories (RAs) were reported and logged by air traffic control during calendar year 2014 reflecting an ongoing safety concern. By making the voluntary compliance mandatory, the FAA expects a decrease in the occurrence of, and will avoid an increase in, RAs. Thus, the cost of the rule would be minimal.

The FAA has, therefore, determined that this proposed rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule does not have a significant economic impact on a substantial number of small entities for the following reasons. With this proposed rule, the procedures and voluntary practices already in place would become mandatory. The intended effect of this action is to mitigate the identified risk by establishing requirements necessary when operating within an established area at Pearson Field, and to increase overall system efficiency and safety; the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not

operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that the rule would protect safety and is not considered an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this notice of proposed rulemaking.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum

extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no corresponding standards with these regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a “significant energy action” under the executive

order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the

closing date for comments. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- Visiting the FAA's Regulations and Policies web page at http://www.faa.gov/regulations_policies or
- Accessing the Government Printing Office's web page at <http://www.fdsys.gov>

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by

calling (202)267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the FOR FURTHER INFORMATION CONTACT heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR part 93

Air traffic control, Airports, navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44715, 44719, 46301.

2. Add subpart N to part 93 to read as follows:

Subpart N—Pearson Field (Vancouver, WA) Airport Traffic Rule

Sec.

93.161 Applicability.

93.162 Description of area.

93.163 Aircraft operations.

§ 93.161 Applicability.

This subpart prescribes special air traffic rules for aircraft conducting VFR operations in the vicinity of the Pearson Field Airport in Vancouver, Washington.

§ 93.162 Description of area.

The Pearson Field Airport Special Flight Rules Area is designated as that airspace extending upward from the surface to but not including 1,100 feet MSL in an area bounded by a line beginning at the point where the 019° bearing from Pearson Field intersects the 5-mile arc from Portland International Airport extending southeast to a point 1 ½ miles east of Pearson Field on the extended centerline of Runway 8/26, thence south to the north shore of the Columbia River, thence west via the north shore of the Columbia River to the 5-mile arc from Portland International Airport, thence clockwise via the 5-mile arc to point of beginning.

§ 93.163 Aircraft operations.

(a) Unless otherwise authorized by ATC, no person may operate an aircraft within the airspace described in § 93.162, or taxi onto the runway at Pearson Field, unless—

(1) That person establishes two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories and continues to monitor the frequency at all times while operating within the specified airspace.

(2) That person has obtained the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.

(b) Notwithstanding the provisions of paragraph (a) of this section, if two-way radio communications failure occurs in flight, a person may operate an aircraft within the airspace described in § 93.162, and land, if weather conditions are at or above basic VFR weather minimums. If two-way radio communications failure occurs while in flight under IFR, the pilot must comply with § 91.185 of this chapter.

(c) Unless otherwise authorized by ATC, persons operating an aircraft within the airspace described in § 93.162 must—

(1) When operating over the extended centerline of Pearson Field Runway 8/26, maintain an altitude at or below 700 feet above mean sea level.

(2) Remain outside Portland Class C Airspace.

(3) Make a right traffic pattern when operating to/from Pearson Field Runway 26.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 40103, and 44701(a)(5) on September 29, 2015.

Jodi S. McCarthy, Director,

Airspace Services.

[FR Doc. 2015-25344 Filed: 10/5/2015 08:45 am; Publication Date: 10/6/2015]